

REMARKS

Claims 2-3 are currently pending in the application. Applicants have amended claims 2-3. Applicants request reconsideration of the application in light of the following remarks.

Rejections under 35 U.S.C. §103

To establish a *prima facie* case of obviousness under 35 U.S.C. §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based upon the Applicants' disclosure. A failure to meet any one of these criteria is a failure to establish a *prima facie* case of obviousness. MPEP §2143.

Claims

Claims 2 and 3 were rejected by the Examiner under 35 U.S.C. § 103(a) as being unpatentable over Panasewicz (U.S. Patent No. 3,678,652, hereinafter "Panasewicz"), in view of Osborn (U.S. Patent No. 4,085,822, hereinafter "Osborn"). Applicants respectfully traverse this rejection and request reconsideration of the claims. While applicant considers that the claims prior to this amendment defined over the art of record for reasons set forth in the response to the previous Office action, additional amendments have been made to further distinguish the present invention from the prior art.

In particular, the claims have been amended to recite that the automatic bag opener and dispenser has "an upper bag hanger comprising a pair of forwardly extending arms supported on an upper portion of the front face and a lower bag hanger supported on a lower portion of the front face of the enclosure respectively". Neither of Panaseswicz or Osborn has both upper and lower bag hangers supported on upper and lower portions of the front face as now claimed. The other references of record do not have upper and lower bag hangers supported

on a front face of an automatic bag opener and dispenser. Therefore, applicant respectfully requests that the obviousness rejections of claims 2 and 3 be withdrawn and earnestly solicits a notice of allowance of the claims.

Regarding Doctrine of Equivalents

Applicants hereby declare that any amendments herein that are not specifically made for the purpose of patentability are made for other purposes, such as clarification, and that no such changes shall be construed as limiting the scope of the claims or the application of the Doctrine of Equivalents.

CONCLUSION


Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

The amendments herein added no new claims. However, a Request for Continued Examination with a fee of \$395, a request for three (3) months of extension to the maximum extendable period with the required fee of \$490, and a petition to revive the above referenced application with the required fee of \$685 are being filed herewith. Therefore, a check in the amount of 1,570.00 for the total of the corresponding fees is included herewith.

If any fees, including extension of time fees or additional claims fees, are due as a result of this response, please charge Deposit Account No. 19-0513. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response. The examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

Date: November 19, 2004

By 
David E. Allred
Reg. No. 47,254

SCHMEISER, OLSEN & WATTS LLP
18 East University Drive, #101
Mesa, AZ 85201
(480) 655-0073